

As Introduced

**135th General Assembly
Regular Session
2023-2024**

S. B. No. 316

Senator Smith

**Cosponsors: Senators Antonio, Craig, DeMora, Hicks-Hudson, Ingram, Lang,
Romanchuk, Schaffer, Sykes**

A BILL

To amend section 5739.21 and to enact section 1
122.97 of the Revised Code to create a music 2
incubator program to provide sales tax rebates 3
to certain music venues and festival promoters. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 5739.21 be amended and section 5
122.97 of the Revised Code be enacted to read as follows: 6

Sec. 122.97. (A) As used in this section: 7

(1) "Eligible music venue or festival promoter" means a 8
music venue or music festival promoter that has met all of the 9
following conditions for at least the two years immediately 10
preceding the date the person submits an application under 11
division (B) of this section: 12

(a) The venue or promoter has held a vendor's license 13
issued under section 5739.17 of the Revised Code. 14

(b) In the case of a music venue, the venue has been a 15
retail establishment with a dedicated audience capacity of not 16

more than three thousand individuals. 17

(c) In the case of a music festival promoter, the promoter 18
has held a music festival in a county with a population of less 19
than one hundred thousand. 20

(d) The venue or promoter has entered into a written 21
contract with a musical performing artist to conduct a live 22
performance at the venue or festival, as applicable, under which 23
the artist received as compensation a specified percentage of 24
ticket sales for or other sales during the performance, or a 25
guaranteed amount in advance of the performance. 26

(e) The venue or promoter has met at least five of the 27
following criteria, including at least one of the criteria 28
described in division (A) (1) (e) (i) or (ii) of this section: 29

(i) Has marketed live performances through listings in 30
printed or electronic publications; 31

(ii) Has provided live music performances five or more 32
nights per week; 33

(iii) Has employed or contracted for one or more 34
individuals to perform at least two of the following services: 35
sound engineering, booking, promoting, stage management, or 36
security; 37

(iv) Has live performance and audience space; 38

(v) Has provided technical sound and lighting support, 39
either in-house or through a contract with a third party; 40

(vi) Has a space for the storage of audio equipment or 41
musical instruments; 42

(vii) Has applied cover charges to one or more live music 43

performances through ticketing or the imposition of an entrance 44
fee; 45

(viii) Has maintained hours of operation that coincide 46
with live music performance show times. 47

(2) "State sales tax" means the tax imposed by section 48
5739.02 of the Revised Code. 49

(3) "Beer" and "wine" have the same meanings as in section 50
4301.01 of the Revised Code. 51

(B) An eligible music venue or festival promoter may apply 52
to the director of development for a rebate under this section. 53
The director shall prescribe the form and manner of the 54
application, which shall include allowing applicants to submit 55
applications by electronic mail or by uploading the application 56
to a designated department web site. 57

The director shall accept applications beginning on the 58
first day of September of each year, beginning in 2025. The 59
director shall review applications in the order in which the 60
applications are received and shall make a determination on each 61
application within thirty days after its receipt. The director 62
shall approve an application if the director determines that the 63
applicant is an eligible music venue or festival promoter that, 64
in either case, provides or has committed to provide an economic 65
benefit to the communities in which the music venues are located 66
or the festivals are held, as applicable, and to the music 67
industry in the state, including live music performers. 68

(C) Subject to division (D) of this section, if the 69
director determines that an eligible music venue or festival 70
promoter qualifies for a rebate under this section, the amount 71
of the rebate shall equal the lesser of the following: 72

(1) The amount of state sales taxes attributable to the sale of beer and wine remitted to the state by the eligible music venue or festival promoter during the preceding fiscal year; 73
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(2) One hundred thousand dollars. 77

(D) The total amount of rebates awarded under this section for a single fiscal year shall not exceed ten million dollars. 78
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(E) Eligible music venues and festival promoters shall use any rebate received under this section to recruit performing artists and bring live musical performances to the state. A venue or promoter receiving a rebate shall provide to the director of development any receipts, invoices, or similar documents demonstrating that the venue or promoter used the rebate for these purposes. The director may require the venue or promoter to repay all or part of the rebate if the venue or promoter fails to provide such documentation or if the director determines that the venue or promoter spent the rebate for any other purpose. 80
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(F) The music incubator rebate fund is created in the state treasury, consisting of money deposited into it under section 5739.21 of the Revised Code. Money in the fund shall be used solely in accordance with this section to award rebates to eligible music venues and festival promoters. All interest earned on money in the fund shall be credited to the fund. 91
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On the last day of each fiscal year, the director of budget and management shall transfer any money deposited into the fund under section 5739.21 of the Revised Code that is unobligated and unexpended on that date to the general revenue fund. 97
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Sec. 5739.21. ~~(A) One~~ (A) (1) Beginning in fiscal year 102
2026, the first ten million dollars deposited into the state 103
treasury under sections 5739.01 to 5739.31 of the Revised Code 104
in each fiscal year shall be credited to the music incubator 105
rebate fund created in section 122.97 of the Revised Code. 106

(2) After crediting the amount required in division (A) (1) 107
of this section, one hundred per cent of all money deposited 108
into the state treasury under sections 5739.01 to 5739.31 of the 109
Revised Code that is not required to be distributed as provided 110
in section 5739.102 of the Revised Code or division (B) of this 111
section shall be credited to the general revenue fund. 112

(B) (1) In any case where any county or transit authority 113
has levied a tax or taxes pursuant to section 5739.021, 114
5739.023, or 5739.026 of the Revised Code, the tax commissioner 115
shall, within forty-five days after the end of each month, 116
determine and certify to the director of budget and management 117
the amount of the proceeds of such tax or taxes received during 118
that month from billings and assessments, or associated with tax 119
returns or reports filed during that month, to be returned to 120
the county or transit authority levying the tax or taxes. The 121
amount to be returned to each county and transit authority shall 122
be a fraction of the aggregate amount of money collected with 123
respect to each area in which one or more of such taxes are 124
concurrently in effect with the tax levied by section 5739.02 of 125
the Revised Code. The numerator of the fraction is the rate of 126
the tax levied by the county or transit authority and the 127
denominator of the fraction is the aggregate rate of such taxes 128
applicable to such area. The amount to be returned to each 129
county or transit authority shall be reduced by the amount of 130
any refunds of county or transit authority tax paid pursuant to 131
section 5739.07 of the Revised Code during the same month, or 132

transfers made pursuant to division (B) (2) of section 5703.052 133
of the Revised Code. 134

(2) On a periodic basis, using the best information 135
available, the tax commissioner shall distribute any amount of a 136
county or transit authority tax that cannot be distributed under 137
division (B) (1) of this section. Through audit or other means, 138
the commissioner shall attempt to obtain the information 139
necessary to make the distribution as provided under that 140
division and, on receipt of that information, shall make 141
adjustments to distributions previously made under this 142
division. 143

(3) Eight and thirty-three one-hundredths of one per cent 144
of the revenue collected from the tax due under division (A) of 145
section 5739.029 of the Revised Code shall be distributed to the 146
county where the sale of the motor vehicle is situated under 147
section 5739.033 of the Revised Code. The amount to be so 148
distributed to the county shall be apportioned on the basis of 149
the rates of taxes the county levies pursuant to sections 150
5739.021 and 5739.026 of the Revised Code, as applicable, and 151
shall be credited to the funds of the county as provided in 152
divisions (A) and (B) of section 5739.211 of the Revised Code. 153

(C) The aggregate amount to be returned to any county or 154
transit authority shall be reduced by one per cent, which shall 155
be certified directly to the credit of the local sales tax 156
administrative fund, which is hereby created in the state 157
treasury. For the purpose of determining the amount to be 158
returned to a county and transit authority in which the rate of 159
tax imposed by the transit authority has been reduced under 160
section 5739.028 of the Revised Code, the tax commissioner shall 161
use the respective rates of tax imposed by the county or transit 162

authority that results from the change in the rates authorized 163
under that section. 164

(D) The director of budget and management shall transfer, 165
from the same funds and in the same proportions specified in 166
division (A) of this section, to the permissive tax distribution 167
fund created by division (B) (1) of section 4301.423 of the 168
Revised Code and to the local sales tax administrative fund, the 169
amounts certified by the tax commissioner. The tax commissioner 170
shall then, on or before the twentieth day of the month in which 171
such certification is made, provide for payment of such 172
respective amounts to the county treasurer and to the fiscal 173
officer of the transit authority levying the tax or taxes. The 174
amount transferred to the local sales tax administrative fund is 175
for use by the tax commissioner in defraying costs incurred in 176
administering such taxes levied by a county or transit 177
authority. 178

Section 2. That existing section 5739.21 of the Revised 179
Code is hereby repealed. 180